

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

RATTHAPON YAPUNA,  
SOMKHIT NASEE, WISIT  
KAMPILO, and all other similarly  
situated persons,

Plaintiffs,

V.

GLOBAL HORIZONS  
MANPOWER INC., MORDECHAI  
ORIAN, PLATTE RIVER  
INSURANCE COMPANY,  
ACCREDITED SURETY AND  
CASUALTY COMPANY, INC.,  
VALLEY FRUIT ORCHARDS,  
LLC, and GREEN ACRE FARMS,  
INC..

NO. CV-06-3048-RHW

# ORDER DENYING DEFENDANTS' MOTION TO DISMISS STATE CLAIMS FOR LACK OF SUBJECT MATTER JURISDICTION

## Defendants.

Before the Court is Defendants Valley Fruit Orchards, LLC's and Green Acre Farms, Inc.'s Motion to Dismiss State Claims for Lack of Subject Matter Jurisdiction (Ct. Rec. 36). The motion was heard without oral argument

Plaintiffs and purposed class members are citizens of the Kingdom of Thailand. They were recruited to come work in Washington in the agricultural

///

**ORDER DENYING DEFENDANTS' MOTION TO DISMISS STATE CLAIMS FOR LACK OF SUBJECT MATTER JURISDICTION ~ 1**

1 industry.<sup>1</sup> In exchange for promises of employment, Plaintiffs paid fees in order to  
2 obtain their temporary foreign agricultural worker visas and travel to Washington.  
3 These fees ranged from \$8,750 to \$11,250. In order to pay these fees, many  
4 Plaintiffs took out loans that were secured by deeds to property owned by  
5 themselves or their families.<sup>2</sup> Plaintiffs allege that they were promised steady,  
6 long-term work for up to three years with Global Horizons. Plaintiffs arrived in  
7 the United States, and specifically, the state of Washington, between May and July  
8 2004. Four of the employees were sent home after four months of work. The other  
9 14 continued working for Global Horizons in Hawaii. Their employment ended in  
10 September, 2005.

11 Plaintiffs are bringing the following claims: (1) Fair Labor Standards Act  
12 claim; (2) Washington Farm Labor Contractors Act claim; (3) Washington Wage  
13 Law claim; (4) Breach of contract claim; and (5) unlawful withholding of wages  
14 under Hawaii law. At the November 2, 2006, telephonic status conference, the  
15 Court stayed the above-captioned proceedings regarding the claims asserted  
16 against Defendant Global Horizons Manpower, Inc., Accredited Surety and  
17 Casualty Company, Inc., and Morechai Orian, to allow the parties to engage in  
18

---

19 <sup>1</sup>Defendant Global Horizon Manpower obtained temporary visas for foreign  
20 agricultural workers. In doing so, it agreed to comply with the terms of the  
21 approved application and regulations under the temporary foreign agricultural  
22 worker program (“H2A”). Defendants Valley Fruit Orchard and Green Acres  
23 Farms contracted with Global Horizon Manpower to provide labor for their  
24 agricultural operations.

25 <sup>2</sup>If Plaintiffs did not have the money, or could not get a bank loan, the  
26 recruiting agency (AACO International Recruitment Company, Ltd (“AACO”)),  
27 hired by Defendant Global Horizons Manpower to find workers in Thailand,  
28 loaned Plaintiffs the money.

1 arbitration as required by the Employment Agreements.

2 **DISCUSSION**

3 It is undisputed that the Court has subject matter jurisdiction to hear  
 4 Plaintiff's Fair Labor Standards Act claim. The question the Court must answer is  
 5 whether it can and should exercise supplemental jurisdiction over the remaining  
 6 state law claims.

7 Pursuant to 28 U.S.C. § 1337(a), the district court may exercise  
 8 supplemental jurisdiction over all other claims that are so related to the federal  
 9 claims that they form part of the same case or controversy. The district court may  
 10 decline to exercise supplemental jurisdiction over a claim if: (1) the claim raises a  
 11 novel or complex issue of State law; (2) the claim substantially predominates over  
 12 the claim or claims over which the district court has original jurisdiction; (3) the  
 13 district court has dismissed all claims over which it has original jurisdiction; or (4)  
 14 in exceptional circumstances, there are other compelling reasons for declining  
 15 jurisdiction. § 1337(c).

16 State law claims are part of the same case or controversy when it shares a  
 17 "common nucleus of operative fact" with the federal claims and the state and  
 18 federal claims would normally be tried together. *Bahrampour v. Lampert*, 356  
 19 F.3d 969, 978 (9<sup>th</sup> Cir. 2004) (citations omitted). In exercising its discretion to  
 20 decline supplemental jurisdiction, a district court must undertake a case-specific  
 21 analysis to determine whether declining supplemental jurisdiction "comports with  
 22 the underlying objective of most sensibly accommodat[ing] the values of economy,  
 23 convenience, fairness and comity." *Executive Software N. Am., Inc. v. United*  
 24 *States Dist. Court*, 24 F.3d 1545, 1557-58 (9th Cir.1994) (alteration in original)  
 25 (internal quotations and citations omitted).

26 The Court finds that the federal claim and the state law claims share a  
 27 common nucleus of operative facts. These facts include the terms of the H2A  
 28 worker's contract of employment set forth in the H2A employment application and

whether Defendants failed to comply with the terms and conditions of the contract. Also at issue will be how much Plaintiffs worked and how much they were paid, the promises made and the demands made on the aliens prior to their obtaining employment. Thus, the Court has statutory authority to hear the supplemental state law claims.

Additionally, the exercise of this authority is appropriate in this case because none of the factors found in section 1367(c) apply. The Washington Farm Labor Contract Act claim is not novel or complex. Instead, it is one of statutory interpretation. Moreover, the state law claims do not predominate over the federal claims. Finally, there are no compelling reasons to decline jurisdiction. On the contrary, the interests of judicial economy, convenience, and fairness support the Court hearing the supplemental state law claims.

**Accordingly, IT IS HEREBY ORDERED:**

1. Defendants Valley Fruit Orchards, LLC's and Green Acre Farms, Inc.'s Motion to Dismiss State Claims for Lack of Subject Matter Jurisdiction (Ct. Rec. 36) is **DENIED**.

2. For the reasons stated at the November 2, 2006, hearing, Defendant Global Horizons Manpower, Inc.'s Motion to Stay All Proceedings and Compel Arbitration (Ct. Rec. 24) is **GRANTED**.

**IT IS SO ORDERED.** The District Court Executive is directed to enter this Order and forward copies to counsel.

**DATED** this 16<sup>th</sup> day of January, 2007.

S/ Robert H. Whaley

**ROBERT H. WHALEY**  
Chief United States District Judge

Q:\CIVIL\2006\Yapuna, et al\dismiss2.wpd

**ORDER DENYING DEFENDANTS' MOTION TO DISMISS STATE CLAIMS FOR LACK OF SUBJECT MATTER JURISDICTION ~ 4**